

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 RICHARD C. ABBOTT,

Case No. 2:18-cv-01148-APG-EJY

4 Plaintiff,

**ORDER**

5 v.

6 ARAMARK CO,

7 Defendant.

8 On August 1, 2019, I denied plaintiff Richard C. Abbott's application to proceed *in forma*  
9 *pauperis* as moot because he was no longer incarcerated. ECF No. 12 at 2. I ordered Abbott to  
10 file a fully complete application to proceed *in forma pauperis* for non-prisoners or pay the full  
11 filing fee of \$400.00 by August 31, 2019. *Id.* The deadline has now expired, and Abbott has not  
12 filed an application to proceed *in forma pauperis* for non-prisoners, paid the full filing fee, or  
13 otherwise responded to my order.

14 District courts have the inherent power to control their dockets and "[i]n the exercise of  
15 that power, they may impose sanctions including, where appropriate . . . dismissal" of a case.  
16 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may  
17 dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to  
18 obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-  
19 54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*,  
20 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order  
21 requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)  
22 (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court  
23 apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming

1 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424  
2 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local  
3 rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to obey a  
5 court order, or failure to comply with local rules, the court must consider several factors: (1) the  
6 public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket;  
7 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on  
8 their merits; and (5) the availability of less drastic alternatives. *See Thompson*, 782 F.2d at 831;  
9 *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61;  
10 *Ghazali*, 46 F.3d at 53.

11 Here, the first two factors, the public's interest in expeditiously resolving this litigation  
12 and the court's interest in managing the docket, weigh in favor of dismissal. The third factor,  
13 risk of prejudice to the defendant, also weighs in favor of dismissal, since a presumption of  
14 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court  
15 or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The  
16 fourth factor—public policy favoring disposition of cases on their merits—is greatly outweighed  
17 by the factors in favor of dismissal. Finally, a court's warning to a party that his failure to obey  
18 the court's order will result in dismissal satisfies the "consideration of alternatives" requirement.  
19 *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. My order  
20 expressly stated: "If Abott fails to timely comply with this order, I will dismiss this case without  
21 prejudice." ECF No. 12 at 2. Thus, Abott had adequate warning that dismissal would result from  
22 his noncompliance with my order.

1 It is therefore ordered that this action is dismissed without prejudice based on Abbott's  
2 failure to file an application to proceed *in forma pauperis* for non-prisoners or pay the full filing  
3 fee in compliance with my August 1, 2019, order.

4 It is further ordered that the Clerk of Court shall close the case and enter judgment  
5 accordingly.

6 Dated: September 10, 2019.

7  
8   
9 \_\_\_\_\_  
10 ANDREW P. GORDON  
11 UNITED STATES DISTRICT JUDGE  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23